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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1476 OF 2007

Chandramohan Dagadu Jadhav Petitioners
versus
Mangal Bhimrao Mengawae Respondent

Mr.S.A.Sawant for petitioners.
Mr.A.P.Kulkarni for respondent.

CORAM : A.S.OKA, J.

DATE : 17th April 2007

PC :

1. The submissions of the learned advocates for the parties were heard yesterday. The petitioners are the original defendants in a suit filed by the respondent for a declaration that the sale deed executed on 5th July 2006 by the first petitioner in favour of second to fifth petitioners is not binding on the suit property more particularly described in paragraph no.1 of the plaint. In paragraph no.1 of the plaint, the suit property is described with reference to it's gat number, boundaries and a sketch incorporated therein. An application for temporary injunction was taken out by the respondent restraining the

petitioners from obstructing the possession of the respondent. The application for temporary injunction was rejected by the Trial Court. In an appeal preferred by the respondent, the application for temporary injunction has been allowed by the impugned judgement and order dated 25th January 2007. The petitioners by this petition under Article 227 of the Constitution of India take exception to the said order.

2. The learned counsel for the petitioners has invited my attention to the pleadings and various documents on record. He has invited my attention to the finding recorded by the Appellate Court in paragraph no.21 of its judgment. He also pointed out a finding recorded by the Appellate Court that the entries in the revenue record in favour of the petitioners appear to be suspicious. He submitted that the revenue record supported the case of the petitioners and insofar as entries in revenue record are concerned, the same are subject matter of a pending appeal. He submitted that there was no material on record to show that on the date of institution of the suit, the respondent was in possession of the suit land. He submitted that the sugar-cane crop has been taken by the petitioners and this Court by

ad-interim order dated 2nd March 2007 has directed that the said sugar-cane crop shall not be cut. He submitted that the impugned order is perverse. The advocate for the respondents has taken me through various documents forming part of the compilation. He submitted that no interference was called for.

3. Reliance was placed by the petitioners on the entries made in the revenue record. The learned counsel for the respondent has shown to me the manner in which the entry of sugar-cane crop was recorded in the cultivation column. That is the reason why the Appellate Court expressed a doubt about the entries made in the revenue record. Considering the manner in which the entries have been made, prima facie, the observations made by the Appellate Court as regards said entries cannot be faulted with.

4. In the light of the description of the property and various documents on record and in particular the sale deed dated 5th July 2006, the learned Appellate Court has recorded a prima facie finding that the respondent was in possession on the date of institution of the suit.

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5. The order granting temporary injunction is always a discretionary order. It cannot be said that there was no material on record to pass the impugned order. In a petition under Article 227 of the Constitution of India it is very difficult to interfere with the impugned order. Accordingly, the writ petition is rejected.

6. It is made clear that all contentions of the parties in the pending suit are expressly kept open. It is also made clear that the suit will be decided without being influenced by the impugned order and the confirmation thereof by this Court.

7. All concerned to act on an ordinary copy of this order duly authenticated by the Registry of this Court.

(A.S.OKA, J.)